



CRP.No.3505 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3505 of 2019
and
CMP.No.23009 of 2019

1.Murugan
2.Manogaran

... Petitioners

Vs.

1.Ramani
2.Muralikrishnan
3.Srinivasamurthy

...Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order made in I.A.No.499 of 2017 in O.S.No.159 of 2015 dated 13.12.2017 on the file of the District Munsif Court, Vaniyambadi, Vellore District.



CRP.No.3505 of 2019

For Petitioners : Mr.Vishal Nair.A
for M/s.Karan and Uday

For Respondent : Mr.T.R.C.Venkatesh
for M/s.My Lord Law Associates

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the petitioners/defendants to condone the delay of 507 days in filing petition to set aside the exparte decree.

2. In the affidavit filed in support of the condone delay petition, it was stated by the petitioners that they entered appearance through their counsel and they had been continuously contacting their counsel to know about the proceedings of the above suit. However, on enquiry it came to their knowledge on 02.08.2017 that an exparte decree was passed against them as early as on 29.02.2016 for their failure to file a written statement. Thus, blaming their counsel before the Court below



CRP.No.3505 of 2019

the petitioners filed an application to set aside the exparte decree along with a petition to condone delay of 507 days in filing the suit petition.

The said petition was dismissed by the Court below. Aggrieved by the same, the petitioners have come up with this Revision.

3. A perusal of the typed set of papers filed by the petitioners would suggest that owing to the failure of the petitioners to file the written statement, they were set exparte and an exparte decree was passed against them on 29.02.2016. The suit is for declaration of title and injunction in respect of cart track filed by the respondents.

4. In view of the fact that the dispute is regarding the right of way and the substantial rights of the persons are involved, this Court is inclined to adopt a liberal approach while considering the petition to condone the delay in filing petition to set aside the exparte decree. In the affidavit filed in support of the condone delay petition it was averred by the petitioners that they engaged an Advocate and petitioners waited in



CRP.No.3505 of 2019

the Court on 02.08.2017. As per the averments, the case of the petitioners was not called on that day and on enquiry they acquired knowledge about the fact that the exparte decree was passed against them.

5. In view of the said assertion by the petitioners this Court deems it appropriate to give an opportunity to the petitioners to contest the suit on merits. However, taking into consideration the delay in filing petition to set aside the exparte decree, the petitioners are imposed with costs Rs.10,000/- to be paid to the respondents.

6. In view of the discussions made earlier this Revision Petition is allowed by setting aside the order passed by the Court below on condition the petitioners make payment of Rs.10,000/- to the respondents within a period of four weeks from today. In case, the petitioners failed to pay the amount as directed, the Civil Revision Petition shall stand automatically vacated. On payment of amount within



CRP.No.3505 of 2019

the stipulated time, the Court below is directed to consider the application filed by the petitioners to set aside the exparte decree on merits and dispose of the same in accordance with law as early as possible.

7. The petitioners are permitted to pay the amount of Rs.10,000/- by way of demand draft in the name of the first respondent and hand over the same to the counsel for the respondents within the time stipulated.

8. With the above observations, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

08.01.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation Case : Yes/No
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CRP.No.3505 of 2019

S.SOUNTHAR , J.

dna

To

The District Munsif Court, Vaniyambadi,
Vellore District.

CRP.No.3505 of 2019
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